

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALBERT M. VIRSNIEKS,

Petitioner,

ORDER

08-cv-313-bbc

v.

WISCONSIN DEPART. OF HEALTH
AND FAMILY SERVICES, SANDRIDGE
SECURE TREATMENT CENTER and
JOHN AND JANE DOE[S], Numbered
1 to 100, Employees of the State of
Wisconsin whose names are currently
unknown,

Respondents.

In an order entered in this case on June 3, 2008, I stayed a decision whether petitioner may proceed in forma pauperis and gave him until June 24, 2008, in which to submit a resident account statement for the six-month period immediately preceding the filing of the complaint. Petitioner has submitted the required statement and a check for \$14. In a letter accompanying the payment, petitioner says that the \$14 check is for the “approximate average of last month’s balance.” Unfortunately, petitioner’s \$14 payment is

insufficient to cover the necessary prepayment of the \$350 filing fee.

Petitioner appears to believe that he will be required to pay the average balance for a one-month period only. However, in the June 3 order, I told petitioner that this court would calculate 20% of his average monthly income and 20% of his average monthly balance for the *six*-month period immediately preceding the filing of the complaint. He would be required to prepay the greater of the two figures.

From petitioner's six-month statement I have calculated 20% of his average monthly balance to be \$44.65. (Petitioner's statement does not show the deposits to his account. Therefore, I am unable to calculate his average monthly income.) This means that in addition to petitioner's \$14 payment, he will be required to submit a second payment of \$30.65. After the court receives the payment, I will take petitioner's complaint under advisement for a determination under 28 U.S.C. § 1915(e)(2) whether the action or any portion of it must be dismissed as frivolous or malicious, for failure to state a claim on which relief may be granted or because petitioner seeks monetary relief against a defendant who is immune from such relief.

ORDER

IT IS ORDERED that petitioner qualifies financially for pauper status on the condition that he submit an additional payment of the \$350 filing fee in the amount of

\$30.65. He is to submit a check or money order made payable to the clerk of court in that amount on or before July 7, 2008. If, by July 7, 2008, petitioner fails to prepay the amount he has been ordered to pay, I will dismiss this case for his failure to prosecute it.

Entered this 17th day of June, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge